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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

PEOPLE OF THE STATE OF  
CALIFORNIA,

Plaintiff and Respondent,

v.

SYED ALI,

Defendant and Appellant.

A155222

(San Mateo County  
Case No. 17-NF-005357-A)

**MEMORANDUM OPINION<sup>1</sup>**

Defendant argues that the trial court abused its discretion in denying his motion to strike a prior conviction pursuant to *People v. Romero* (1996) 13 Cal.4th 497 (*Romero*), which allows courts to strike prior strike convictions in the interests of justice. We affirm.

**PROCEDURAL BACKGROUND**

Defendant was charged in an amended information with felony pimping (Pen. Code, § 266h, subd. (a)) and bringing contraband into a jail (Pen. Code, § 4573, subd. (a)).

Defendant entered a no contest plea to the pimping charge and admitted his prior strike, a residential burglary conviction from 2015. Pursuant to the plea, the prosecutor

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<sup>1</sup> We conclude this matter is proper for disposition by memorandum opinion in accordance with the California Standards of Judicial Administration, section 8.1. We therefore recite the facts only as necessary to resolve the issues on appeal.

dismissed the contraband charge. In taking the plea, the court noted that the agreed-upon sentence would have a “six-year prison top” and commented that it would “consider, although make no promises about striking [defendant’s] strike conviction.” Defendant responded that he understood. On the same date, defendant signed a declaration confirming that the only promises inducing his plea were a “6 year prison top” (on a case with a maximum exposure of 12 years) and the fact that the “court [would] consider *Romero*.”

Defendant filed a *Romero* motion asking the court to strike his prior residential burglary conviction. Defendant contended that the strike should be stricken because (1) a six-year prison sentence was “excessive” in relation to the crime and his age (26), (2) pimping was “not violent or life-threatening,” and (3) his prior residential burglary conviction was “the result of a difficult period in his life.” The prosecutor opposed the motion, noting that defendant had suffered five prior convictions (of which three were felonies), as well as two parole violations and six probation violations; had assaulted his 50 year old cellmate in an unprovoked attack while in custody; and had failed to appear for trial setting after his parents posted bail, resulting in an out-of-state arrest.

The court denied the *Romero* motion, first stating that the prior strike was both a serious felony and “relatively close in time” to the offense of conviction. The court further noted that defendant had multiple other prior convictions, as well as a “dismal” record while on supervision—specifically referencing his two parole and six probation violations. It commented that defendant had “failed to remain law abiding even in custody.” The court also remarked that defendant was “on probation for that residential burglary when [he] picked up this case,” and that while defendant was capable of making money legitimately, he was “lazy” and chose the “pimp life” where he could “make [his] money off of acts of other people.”

Defense counsel contended that at the pretrial conference, the court had “made it clear to [counsel] at least that if [defendant] did well on the probation report and showed remorse, that [the court] would strike the prior strike.” He argued that defendant was honest and remorseful with the probation officer and “that’s what [the court] asked him to

do in order to strike the prior.” The court responded, “So you are interpreting what I said to say, ‘Just tell him to say he is sorry and I am going to strike the strike’? I don’t recall saying that. I don’t.”

Defendant then filed a motion to withdraw his plea, which the court denied.<sup>2</sup> The court subsequently sentenced defendant to a prison term of six years, consisting of the lower term of three years doubled based on the prior strike.

## DISCUSSION

We review for abuse of discretion a trial court’s refusal to strike a prior strike, reversing only if the ruling “ ‘falls outside the bounds of reason’ ” under the applicable law and relevant facts. (*People v. Carmony* (2004) 33 Cal.4th 367, 374; *People v. Williams* (1998) 17 Cal.4th 148, 162 (*Williams*), citing *People v. DeSantis* (1992) 2 Cal.4th 1198, 1226.)

Defendant fails to demonstrate an abuse of discretion. Contrary to defendant’s contention that the court stated it “would grant a *Romero* motion” if defendant showed remorse and “did well in his interview with the probation officer,” the plea colloquy and defendant’s signed declaration make clear that the court stated only that it would “consider” such a motion, “mak[ing] no promises.” The court did just that.

In denying the motion, the court articulated multiple appropriate bases for the denial: defendant’s numerous prior convictions, his more numerous probation and parole violations, the recency of his strike, his attack on a cellmate while in custody, his choice to profit from others’ efforts, the fact that he was on probation on the strike case when he picked up the pimping case, and his absconding after his parents posted bail. These are precisely the factors a court should analyze in ruling on a *Romero* motion, and the court’s assessment was well within the bounds of reason. (*Williams, supra*, 17 Cal.4th at p. 161 [court must consider nature and circumstances of present offense, as well as defendant’s prior convictions, character, background, and prospects].)

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<sup>2</sup> Defendant does not appeal the denial of his motion to withdraw his plea.

In light of this record, defendant fails to establish that the court abused its discretion in denying his *Romero* motion.

**DISPOSITION**

The judgment is affirmed.

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BROWN, J.

WE CONCUR:

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STREETER, ACTING P. J.

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TUCHER, J.